

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 66820

Petitioner:

CRESTONE RECREATION, INC.,

v.

Respondent:

**SAGUACHE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 31, 2016, Sondra Mercier and MaryKay Kelley presiding. Steven Lunt, Director, appeared *pro se* on behalf of Petitioner. Respondent was represented by Ben Gibbons, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**245 North Alder Street, Crestone, Colorado
Saguache County Schedule No. 460407322006**

The subject is located in the small town of Crestone (population below 100), which sits at the base of the Sangre de Cristo Range in southwestern Colorado. It is a 1,340 square foot one-level log residence built in 1940 on a 0.6-acre site (24,850 square feet). Assessor's records have been corrected since the last assessment to read one bedroom (not two), a root cellar (not basement), and electric baseboard heat (not forced air). Utilities include a private well, public sewer, and electricity (electric baseboard heat in two rooms). A second two-story structure functions as storage and is considered salvage.

Respondent assigned a value of \$62,654 for tax year 2015 but is recommending a reduction to \$44,654. Petitioner is requesting a value of \$35,500.

Mr. William Black, shareholder, described the property's multi-generational ownership dating to 1959. Three families, all owners, use it seasonally for recreation. With the log house on the north-west portion of the parcel, the south-east half slopes steeply to the creek and lies within flood plain. Should the shed be demolished for any reason, it cannot be rebuilt. Mr. Black noted the home's age and the Assessor's assignment of Grade 1 (scale of 4) for construction quality. He described its piled rock foundation, dry rot, and the presence of rodents. He also noted the home's 50-year-old hand-dug well, which has failed in periods of drought, and argued that lack of connection to the city water system results in negative market impact.

Mr. Black requested comparable sale data from the Assessor's office and was provided 25 sales located throughout the county. He then narrowed the list by assessor-assigned construction quality "grade" (reduced to 15 sales), site size (reduced to four sales), size of improvement (reduced to three sales), year built and bedroom count (reduced to one). This sale, located in Sargents (79 miles distant), sold on June 25, 2014 for \$30,000, but carried an assigned value of \$35,425 for tax year 2015. Petitioner's requested value of \$35,500 was based on this analysis.

Respondent's witness, Jacqueline Stephens, Consultant, described five economic areas within the county. The subject lies within the Crestone and Moffat economic areas; the two towns are 10-15 miles apart. Ms. Stephens also testified to the CBOE's determination of lot value at \$7,500 each per determination of the District Court.

Respondent's witness, Peter Peterson, Assessor, presented his valuation of the subject property at \$44,654; the site at \$12,731 (no explanation or support) plus the residence at \$31,923 (prior assessor valuation at \$44,923 minus \$5,000 for dry rot and \$8,000 for foundation issues). The two-story shed was given zero value.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Section 39-1-103(8)(a)(I), C.R.S. indicates: "Use of the market approach shall require a representative body of sales, including sales by a lender or government, sufficient to set a pattern, and appraisals shall reflect due consideration of the degree of comparability of sales, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes." The Board is not convinced that Respondent's value conclusion was derived using the appropriate valuation methodology.

Respondent's separate valuation of the subject's lot and improvement is contrary to the Unit Assessment Rule in Colorado, which the court defines as "...a rule of property taxation which requires that all estates in a unit of real property be assessed together..."; see e.g. *City and County of Denver v. Regis Jesuit Holding Inc.*, 848 P.2d 355 (Colo. 1993), as well as accepted appraisal practice. An improved lot is to be valued as a single unit. Adjustments to land and improvements separately are inappropriate; the whole is not equal to the sum of its parts.

The Board finds that Petitioner presented sufficient probative evidence to convince the Board that Respondent's 2015 valuation of the subject was incorrect. The Board finds that Respondent's

valuation methodology was flawed and inconsistent with acceptable appraisal practice.

From the evidence and testimony presented by both parties at the hearing, the Board finds that Petitioner's requested value of \$35,500 is reasonable considering the subject's age, location, and condition.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$35,500.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 23rd day of September, 2016.

BOARD OF ASSESSMENT APPEALS



Sondra W. Mercier

MaryKay Kelley

MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

